

**REMARKS**

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

**I. CLAIM STATUS AND AMENDMENTS**

Previously pending claims 23-30, 32-35, and 39-41 have been cancelled, and new claims 43-61 have been added.

Support for the amended and new claims can be found in the specification and in the original claims as filed. Support for new claim 43 can be found in the specification, for example, at page 7, lines 27-31, page 8, lines 6-21, and in Figure 3. Support for new claims 44-58 can be found in the original claims. Additional support for claim 54 can be found in the specification, for example, at page 5, line 24, to page 6, line 5, at page 10, line 12, to page 11, line 6, and in Figure 4. Support for claim 59 can be found in the specification, for example, at page 8, lines 6-13. Support for claims 60-61 can be found in the specification, for example, at page 5, lines 11-22.

New claims 43-53 and 55-58 substantially correspond to the subject matter of previously pending claims 23-30, 32-35, and 39-41. Claims 54 and 59-61 further define embodiments of the invention. No new matter has been added.

Applicant again thanks Examiner Nguyen and Examiner Hindenburg for the helpful interview with the applicant's representative on May 20, 2009. During the interview, the

applicant's representative discussed the differences between the instant invention and the art of record.

## **II. CLAIM REJECTIONS - 35 USC §103**

At page 2, item 3, the January 7, 2009, Office Action rejects claims 23-28, 30, and 39-41 under 35 USC §103(a) as obvious over SUYDAM (US 2002/0193762 A1), in view of DYE (US 3,831,446), further in view of BORTLE (US 4,296,502), and even further in view of NOZAKI et al. (US 6,530,909). Applicant respectfully traverses the rejection.

Independent claim 23 has been cancelled, and new independent claim 43 has been added. New claim 43 is directed to a urological measuring instrument for determining a magnitude of urine flow, comprising a receiving member for receiving the urine flow, a urine guide in communication with the receiving member and comprising an inlet and an outlet for the urine flow, and a flow indicator for measuring the magnitude of the urine flow in communication with the inlet and outlet. In addition, the flow indicator comprises a plurality of outflow openings and side channels arranged in a side wall of the urine guide through which the urine flow occurs, whereby the number of the outflow openings through which the urine flow occurs is a measure of the magnitude of the urine flow.

As discussed during the May 20, 2009 Examiner interview, SUYDAM, DYE, BORTLE, and NOZAKI, fail to teach or suggest an instrument having these structural features.

SUYDAM describes a disposable portable urinal device. The device essentially includes a funnel attached to a sealable bag containing a hydrophobic polymer for absorbing the urine (see, Abstract and Figs. 1-9). SUYDUM fails to teach or suggest any type of flow indicator for measuring the magnitude of the urine flow, and absolutely fails to teach or suggest a flow indicator comprising a plurality of outflow openings and side channels arranged in a side wall of a urine guide through which the urine flow occurs, whereby the number of the outflow openings through which the urine flow occurs is a measure of the magnitude of the urine flow, as recited in claim 43.

DYE describes a device for measuring urine flow rate that includes components to measure the total volume of urine discharge over a period of time, and thus allow the average flow rate to be calculated (see, column 2, lines 3-28, and Figs. 1-7). Like SUYDAM, DYE also fails to teach or suggest a flow indicator comprising a plurality of outflow openings and side channels arranged in a side wall of a urine guide through which the urine flow occurs, whereby the number of the outflow openings through which the urine flow occurs is a measure of the magnitude of the urine flow, as recited in claim 43.

Thus, one of ordinary skill in the art would have failed to combine the teachings of SUYDAM and DYE to derive any instrument having a flow indicator as recited in claim 43.

The Office Action further relies on BORTLE to teach components of the instrument lying at least substantially folded onto each other and substantially flush with each other, and relies on NOZAKI to teach that when folded the external surfaces face each other. New claim 43, however, does not recite these features. Furthermore, BORTLE and/or NOZAKI fail to remedy the major deficiencies of SUYDAM and DYE, and each fails to teach or suggest a flow indicator comprising a plurality of outflow openings and side channels arranged in a side wall of a urine guide through which the urine flow occurs, whereby the number of the outflow openings through which the urine flow occurs is a measure of the magnitude of the urine flow, as recited in claim 43.

For at least these reasons, SUYDAM, DYE, BORTLE, and NOZAKI, alone or in any combination, fail to teach or suggest, and would not have rendered obvious, a urological measuring instrument having the combination of features as recited in claim 43. Each of claims 44-61 depends directly or indirectly from claim 43, and for at least these same reasons would also have not been obvious. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

### III. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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